
From: Michael Rowan
Sent: Monday, 13 February 2023 9:52 PM
To: Local Government Board
Subject: Future of Local Government Review Enquiry

Dear Sir/Madam

As what I wish to contribute does not readily fit into the template provided for comment, I would be grateful if you would consider the following thoughts as my contribution to your Review.

Thank you for the opportunity to contribute to the Future of Local Government Review. I wish to make two points

First, I think there is a fundamental confusion about what local government is, which is embedded in the words that are used to discuss the matter. I expect a careful disambiguation of what we are actually talking about when we use the words 'local government' and especially 'councils', would facilitate much clearer thinking about the matters canvassed in the Review, and make proposals for reform which might otherwise be thought controversial appear obviously desirable.

We should use the word 'council' to refer to the body of elected representatives that has responsibility for discharging the responsibilities of government at the local level, where the area each council is responsible for is defined by municipal boundaries.

This should be clearly distinguished from what should be called the 'municipal administration', which has the responsibility for delivering specified services to the communities located within the municipal boundaries, as determined both by relevant legislation and the planning of the council governing the municipal administration.

Using this terminology, it is my understanding is that there is considerable concern in the community to ensure that councils remain small in order to be responsive to their community, while there is also concern in the community and perhaps more so in government that municipal administrations are increased in size to provide the expertise and resources that these administrations require to deliver the services with which they have been tasked.

Of course this is not the full picture of concerns. It might also be thought that small councils may lack the expertise to discharge certain governance functions, in particular planning decisions. And it might be thought that larger municipal administrations would threaten local employment. But if I have understood the information coming from community consultations and government concerns these

are more minor matters – though planning requires more discussion, as below.

It appears to me, then, that there is an obvious path of reform for local government in Tasmania. Not primarily shared municipal administration functions between councils, as this creates the problem of one servant with many masters. But rather, larger municipal administrations, governed by councils, which are comprised of a slightly increased number of representatives elected by communities within the municipality – that is, a return to the form of representation that is employed in the other levels of government where (in the lower houses at least) a member of the governing body represents a portion of the electorate of the whole municipality/state/commonwealth. This would achieve both maintenance – even better, improvement – in local representation in decision making, and economies of scale in service delivery.

In this system it is easy to envisage Tasmania having many fewer municipal administrations, governed by fewer councils, but with each council having a larger number of members with (perhaps) at least two being elected by each of the multiple electorates comprising the municipality. Each electorate would encompass as best as possible a distinct community, noting as the Review has observed that people’s attachment to a local community or neighbourhood is strongly correlated with improved health and wellbeing.

Such a system would achieve economies of scale for service delivery, and strong local voices as to what services are required.

The system in might also deal with what in my experience is the failure of effective governance by the councils of the municipal administrations, where, for example, the elected councillors are concerned with potholes while the administration deals with strategic planning. My experience concerns only the Kingborough Council, but I suspect this is typical of the whole of local government in Tasmania.

A small digression on the matter of planning might serve to introduce the problem, as well as respond to a major matter canvassed by the Review which is currently an issue of concern in the community.

Allow me to begin with an example. At its meeting of 9 December 2019 Kingborough Council considered an officer’s report on the transition from the Kingborough Interim Planning Scheme to the new Statewide Planning Scheme. As I recall the substance of the officer’s report (it has now been removed from the Council’s web site), it did not raise any red flags for the council, and was dealt with in less than ten minutes with only two councillors contributing to the discussion, both asking for clarification of matters of process rather than addressing the substantive decisions about the rezoning of areas within the municipality. After ten minutes, the motion

for adopting the report was carried unanimously.

Contrast an earlier matter on that meeting agenda, concerning two signs on a property on Bruny Island advertising accommodation. This attracted contributions from 10 councillors, and lasted over 20 minutes.

Council failed to see that it had in a summary fashion dealt with an issue that would be of great concern to members of the community, which has now led to the creation of an active Facebook community, a number of questions to the Council, and a petition signed by more than 500 ratepayers. This was a clear failure of governance.

What should have occurred was that the officer of the municipal administration considering the change to the planning scheme looked at it from the point of view of each of the distinct communities in the municipality, recognising that some would fear they would be disadvantaged by the proposed change, then alerting the Council to this issue, and facilitating a thorough discussion of the matter. All this is now occurring *post hoc*, with the Council playing catch-up rather than leading the community.

As for the signs on Bruny, the municipal administration officer should have produced a simple paper stating here is what is permitted under the planning scheme, here is what the property owner seeks permission to do, here are the arguments from other ratepayers on whether the property owner should be allowed to do as they wish, and this is my advice as to what the Council should determine – and the whole matter should have been an unstarred item in the council agenda whereby the officer's recommendation was accepted unless an elected member wished to have the matter debated.

My point here is that the governance function of the councils should direct their attention to issues of policy, while implementation of policy should be left to the municipal administration without involving the council at all where the decisions to be made fall clearly within the rules, and where they require judgement officers of the municipal administration should propose a judgement to the council and leave it to the council whether that should be accepted without further discussion or brought on for debate.

I would go further and suggest that the Statewide Planning Scheme should be codified in an expert system which would allow applicants for development to submit an application via an interactive web interface that elicits information from the applicant allowing the application to be approved without requiring the consideration of municipal administration staff, leaving these experts free to assist applicants whose plans do not readily comply with the planning rules find ways to achieve their aims within the permitted uses of the planning scheme, or to present a

case to the council for the approval of a discretionary use of their property.

At the moment, both the municipal administration and the councils are unnecessarily mired in planning busy work which frustrates the applicants, turns the planners into uncreative rule enforcers, and overloads council agendas with uncontroversial detail.

With the restructure of local government I recommend as above, the larger municipal administrations would have the capacity to automate straightforward planning approvals, assist applicants with more complex proposals, and have elected members well attuned to the particular concerns of distinct communities within the municipality able to lead council discussion of the most difficult and sometimes controversial applications.

Second, there is currently in Tasmania a very poor understanding of the governance role of elected councils, which needs to be corrected for local government to fulfil its responsibilities under the Act.

An important first step would be to have the Act amended – or failing that, have the Director of Local Government write to mayors – to require that the councils (ie the elected members) debate and approve the long term strategic and annual plans, and the annual review, before the latter is presented to the council's AGM. (At Kingborough, at least the most recent Annual Report was not discussed by Council at all.)

Good governance practice would also require that the elected council, if necessary with the support of an outside organisation but at arm's length from the municipal administration, conducts an annual review of its own performance, considering

1. the extent to which council agendas have focused on the functions of local government as detailed in the Local Government Act
2. any examples where council found itself responding to, rather than leading the community, in a matter of substantial local concern, and why this occurred
3. the council's, and the municipal administration's standing in the community, as shown by whatever community and client feedback mechanisms are employed
4. the relationship between the council and other councils, and the state and federal government, including the council's success or failure in gaining grants for which it might have qualified
5. the success of the municipal administration in implementing the council's annual plan and other plans and strategies that the council has adopted.

At present this is far from the understanding of councils' governance responsibilities. Consider, for example, the LGAT guide on good governance.

- the guide in summarising what is good governance (p.7) does not make the most important point: good governance is making sure that the Council is actually fulfilling all of the responsibilities set out in the Local Government Act.
- the Guide is written as if 'councillors are the problem', and good governance consists in making them behave properly. While all of this is important, it is only a part of good governance. It is telling that the guide gives scenarios where councillors have done the wrong thing in every section of the guide with the exception of the section on strategic planning and monitoring performance, the very issue which is at the heart of why we have elected councils at all and not just a bureaucracy at local government level. There is no scenario of failure or error here, but this is the thing which is the most common failure of boards – they fail to see storms approaching and steer safely through. (Mike Cannon Brooks' recent takeover of the AGL Board is a text-book example.)
- the guide does not give any attention to governance failures by the GM or the administration, and, as an example of its lack of clarity about who is responsible for what, even forgets to include the GM's responsibilities under the Work Health and Safety Act, for which they are the responsible officer. Given the penalties for breaches of this Act it should be uppermost in their mind, but it is not listed in the set of legislation relevant to the GM on page 12.

I urge you to ensure that the Review supports strengthened local representation, stronger governance of the municipal administration by the elected council, simplified decision making on planning matters that are not controversial, and with all this, an improvement in the efficiency, effectiveness and public regard of local government in Tasmania.

Thank you for your consideration of my concerns

Michael

Michael Rowan PhD
Emeritus Professor
University of South Australia



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